IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 22773 of 2004

Between:

N.L. Reddy, E. 318577, Mechanic, Husnabad Depot,
S/o. Malla Reddy, 34 years, R/o. Husnabad, Hyderabad.

..... PETITIONER

AND

1 The APSRTC Rep by its Regional Manager,

Karimnagar Region at Karimnagar.
2 The APSRTC Rep by its Depot Manager, Godavarikhani, Karimnagar.
3 The APSRTC Rep by its Depot Manager, Husnabad,Karimngar

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents herein in imposing the punishment of differment of annual increment for a period of 1 year with cumulative effect without holding any departmental enquiry vide Proc No. E3/1(19)/97-DM-GDKN, Dt.20-9-1997, which was confirmed by the appellate authority vide Proc No. PA/19(296)/99-RM-KR, Dt.26-8-1999 as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the differed increment wef 20-9-1997 and to pay the arrears forthwith.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: SMT.P.RAJANI REDDY

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C.BHANU

WRIT PETITION NO: 22773of 2004

ORDER:

The petitioner is working as a Mechanic in the respondent Corporation. A charge memo was issued to him on the allegation of unauthorized absence for duties. The petitioner submitted his explanation. The grievance of the petitioner is that the respondent without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order, imposing a penalty of deferment of increment for a period of one year with cumulative effect. The petitioner preferred an appeal before the appellate authority challenging the order of the respondent and it was rejected on 26.08.1999. The petitioner therefore, approached this Court through this writ petition to declare the proceedings No.E3/1(19)/97-DM-GDKN, dated 20.09.1997 of the respondent, which was confirmed by the Appellate Authority vide Proceedings No.PA/19(296)/99-RM-KR, dated 26.08.1999 as illegal, arbitrary, in violation of principles of natural justice and in violation of Articles 14 and 21 of the Constitution of India and consequently to direct the respondents to add one deferred increment with effect from 20.09.1997 and to the pay the arrears forthwith to the petitioner.

2. The petitioner contends that the punishment imposed on him is a major penalty and it cannot be imposed without conducting any enquiry. Therefore, it amounts to violation of the rules as well as the principles of natural justice.

3. The respondents did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be held that the first respondent failed to follow the procedure prescribed under the rules and regulations. Therefore, the

impugned order dated 20.09.1997 is not sustainable under law.

4. Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of deferment of one increment with cumulative effect imposed on the petitioner into one of deferment of one increment without cumulative effect.

5. The Writ Petition is accordingly disposed of. No order as to costs.

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09th December, 2004

KVR

TO

1 The Regional Manager, APSRTC

Karimnagar Region at Karimnagar.
2 The Depot Manager, APSRTC Godavarikhani, Karimnagar.
3 The Depot Manager, APSRTC Husnabad,Karimngar

District.

4 Two C.D. Copies.